



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Steven M. RUBEN

Appl. No.: 10/662,429

Filed: September 16, 2003

For: **Apoptosis Inducing Molecule I**

Confirmation No.: 2663

Art Unit: 1644

Examiner: HUYNH, PHUONG N.

Atty. Docket: 1488.1890003/EJH/SAC

**Declaration of James Grinnell
Ruben Exhibit #56**

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Ruben EXHIBIT #56

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Filed on Behalf of Party Ruben
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES
(Administrative Patent Judge Sally Gardner Lane)

STEVEN M. RUBEN

Junior Party,
(Application 08/816,981),

v.

STEVEN R. WILEY and RAYMOND G. GOODWIN

Senior Party,
(Patent No. 5,763,223).

Patent Interference No. 105,077

DECLARATION OF JAMES GRINNELL

Ruben EXHIBIT 2056
Ruben v. Wiley et al.
Interference No. 105,077
RX 2056

DECLARATION OF JAMES GRINNELL

I, JAMES GRINNELL, declare and state as follows:

1. From August 1994 to January 2004, I was employed by Human Genome Sciences, Inc. (HGS) in the Department of Bioinformatics/Information Technology. Initially, I joined HGS in the position of Systems Administrator and ultimately held the position of Data Center Manager. During the time I was employed by HGS, my duties included storing, maintaining, and retrieving data from HGS's electronic database.
2. From at least April 29, 1994 and throughout my employment at HGS, HGS had a practice of periodically recording all electronic database data on storage tapes using a standard UNIX backup method. The date on which the data was recorded on the tape was marked and the tape was archived by transferring it to First Federal, an outside archive storage firm. First Federal preserved the tapes in the condition in which they were received from HGS.
3. In 1999, patent counsel for HGS requested of me to retrieve two archive tapes of recorded information from the early 1994 time period on the HGS clone HTPAN08. Pursuant to my instructions in carrying out this request, First Federal transferred two archive tapes from this time period: one was dated April 29, 1994 and one was dated April 28, 1995, the dates the data was originally transferred from HGS's electronic database to the tape. In order to ensure that the original tapes were not handled by HGS personnel, the tapes were transferred by First Federal to Microage, Inc., a computer service vendor, who copied the April 29, 1994 tape and the April 28, 1995 tape, without in any way altering their contents, and sent the originals back to First Federal for archive storage. Microage, Inc. then transferred the copies they made of the April 29, 1994 and April 28, 1995 tapes to me.

4. On December 2, 1999, I then transferred the file containing the copied tape dated April 28, 1995, without in any way altering its contents, onto HGS's backup database and pointed IRIS, HGS's electronic notebook system to the backup database to retrieve the information stored on the April 28, 1995 tape. On December 2, 1999, I then printed out the information that had been recorded on the April 28, 1995 tape for the HTPAN08 project. RE99 is a copy of this December 2, 1999 printout that I generated containing the unaltered information that had been recorded on the April 28, 1995 tape for the HTPAN08 project.


5. On December 3, 1999, I then transferred the file containing the copied tape dated April 29, 1994, without in any way altering its contents, onto HGS's backup database and pointed IRIS, HGS's electronic notebook system, to the backup database to retrieve the information stored on the April 29, 1994 tape. On December 3, 1999, I then printed out the data that had been recorded on the April 29, 1994 tape for the HTPAN08 project. RE97 and RE98 is a copy of the December 3, 1999 printout I had generated containing the unaltered data that had been recorded on the April 29, 1994 tape for the HTPAN08 project.

6. It should also be noted that any data in the IRIS database provides the date that the file was created by the author. This is indicated as "Date Created" under the heading "Project Information." Also, if the content of the file was subsequently modified, this would be indicated as "Date Modified" under Project Information. The "Date Modified" would indicate the last date that the electronic project was modified. For example, RE99 was created February 2, 1994 and last modified on April 14, 1995.

7. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so

made are punishable by fine or imprisonment, or both, under § 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application captioned above or any patent issuing thereupon.

Date: 06-24-2004


James Grinnell

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